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10/695,404	10/28/2003	William L. Grilliot	MOR3334P0890US	5637
32116	7590	05/16/2006	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			HOEY, ALISSA L	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/695,404
Filing Date: October 28, 2003
Appellant(s): GRILLIOT ET AL.

MAILED
MAY 16 2006
GROUP 3700

Allen J. Hoover
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/03/06 appealing from the Office action mailed 09/29/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

3,269,036	Parker et al.	08-1966
Re. 32,506	Hightower, Jr.	09-1987

Webster's New Third International Dictionary, Merriam-Webster, Inc., Springfield, Massachusetts (1986): definition of Pants

Merriam Webster Collegiate Dictionary: Tenth Edition: definition of pant

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US 3,269,036) in view of Hightower, Jr. (US Re. 32,506).

In regard to claim 1, Parker teaches a pair of protective pants (10) having an upper portion which when worn covers a lower region of a wearer's torso and two leg portions (figure 2). Each of the leg portion when worn covers one of the wearer's legs and each has an upper region which extends downwardly from the upper portion and a lower region which extends upwardly from a lower end of the leg portion towards the upper region and which terminates no higher than where the leg portion when worn covers the wearer's knee (figures 2, identifiers 22 and 11). The lower region has a layer of puncture-resistant material the extends upwardly from the lower end of the leg portion and surrounds the lower end of the leg portion and which is resistant to puncture by snakes or by thorny or spiky plants (figure 3, column 1, lines 9-13 and 33-43).

However, Parker fails to teach the puncture-resistant material being made from a cloth fabric.

Hightower teaches a puncture resistant material made from a cloth fabric to resist puncture by snakes, or by thorny or spiky plants (column 2, lines 40-45 and 62-68).

In regard to claims 2 and 4, Parker teaches the upper portion and the upper region of the leg portions having an outer layer of abrasion resistant material (column 1, lines 57-63). Further, Parker teaches only the lower region of each leg portion having the layer of puncture-resistant material (column 2, lines 16-64).

In regard to claim 3 and 4, Parker fails to teach the upper portion and the leg portions from the upper portion to the lower ends of the leg portion having one or more inner layers.

Hightower teaches the upper portion and the leg portions from the upper portion to the lower ends of the leg portion having one or more inner layers (figure 3, identifiers 21, 17).

It would have been obvious to have provided the protective pant of Parker with the puncture-resistant cloth material and inner layer of Hightower, since the protective pant of Parker provided with a puncture-resistant cloth would provide for comfort and ease of movement while puncture protection at the same time. Further, the inner layer provided on the leg portions of Parker would provide greater protection to the user than just a single layer of woven fabric.

(10) Response to Argument

I) Applicant argues that Parker and Hightower fail to teach a pants garment.

Examiner notes as defined by Merriam Webster Collegiate Dictionary: Tenth Edition, a pant garment is an outer garment covering each leg separately and usually extending from the waist to the ankle. The garment of Parker teaches a garment that is an outer garment covering each leg separately and extending from the waist to the ankle. Further, Parker teaches a garment that has an upper portion that covers a lower region of a wearer's torso, since the garment of Parker meets the definition of a pant garment it reads on the limitations as claimed.

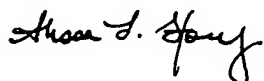
Further, Parker teaches a protective legging device in which the upper portions of the sheets of fabric (11) are secured to the belt (18) of the user by straps (17). The leggings are supported adjacent the upper end thereof instead of being supported from the shoes of a wearer. The fabric sheet leggings (11) attached to belt (18) create a one piece pants article that covers each leg separately and extends from the waist to the ankle.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,




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